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# GRIEVANCE PROCEDURES IN NONUNION WORKPLACES: AN EMPIRICAL ANALYSIS OF USAGE, DYNAMICS, AND OUTCOMES

DAVID LEWIN\*

## I. INTRODUCTION

In the thirty years following the famous *Steelworkers' Trilogy* cases of 1960,<sup>1</sup> the "labor" landscape of the United States (U.S.) has changed dramatically. Probably the leading development in this regard has been the decline in unionism and the growth of the nonunion sector of the economy, society, and labor force. Whereas roughly one of every three private sector workers belonged to a labor union at the time the *Steelworkers' Trilogy* cases were decided, this proportion declined to about one out of eight by the end of the 1980s and some scholars predict that it will decline further, to about five percent, by the end of the 20th Century.<sup>2</sup>

In light of this development, scholars, policymakers, workers, employers, and the public might believe that the issue of workplace dispute resolution (and the role of arbitration) to which the *Steelworkers' Trilogy* was addressed is fading from the scene—and will fade further in the 1990s. This would be a mistake, however, principally because workplace disputes and dispute resolution are not by any means confined to unionized settings. To the contrary, disputes over workplace issues are characteristic of (embedded in) the employment relationship, as recent cases of employee "whistleblowing," unjust/wrongful discharge, and nonunion grievance settlement make abundantly clear.<sup>3</sup>

This paper will focus on the last of these phenomena, namely, the

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1. See *United Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593 (1960); *United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960); *United Steelworkers v. American Mfg. Co.*, 363 U.S. 564 (1960).

2. R. FREEMAN & J. MEDOFF, *WHAT DO UNIONS DO?* (1984); J. LAWLER, *UNIONIZATION AND DEUNIONIZATION: STRATEGY, TACTICS AND OUTCOMES* (1990); Blanchflower & Freeman, *Going Different Ways: Unionism in the United States and Other Advanced O.E.C.D. Countries*, 30 *INDUS. REL.* (1991).

3. See, e.g., J. DERTOUZOS, E. HOLLAND & P. EBENER, *THE LEGAL AND ECONOMIC CONSEQUENCES OF WRONGFUL TERMINATION* (1988); D. EWING, *JUSTICE ON THE JOB: RESOLVING*

incidence and resolution of grievances in nonunion workplaces. Part I of the paper presents recent evidence about the incidence of nonunion grievance procedures and the use of such procedures in United States industry. Part II examines patterns of nonunion grievance procedure usage by specific issue and level of settlement, including settlements by arbitration. Part III analyzes newly collected data concerning the perceptions of employees and managers about the effectiveness of nonunion grievance procedures. Part IV presents evidence pertaining to selected post-grievance settlement outcomes and offers interpretations of key findings. Part V summarizes the main conclusions of this study and offers a research agenda for the 1990s with respect to workplace dispute resolution processes and dynamics.

## II. PART I: NONUNION GRIEVANCE PROCEDURE INCIDENCE AND USAGE

How prevalent are grievance procedures in the nonunion sector of the United States economy? While a variety of estimates have been provided in this regard, the most systematic evidence comes from a late 1980s Columbia University-sponsored study of human resource policies and practices of United States businesses.<sup>4</sup> Table 1 summarizes the evidence from this study pertaining to grievance procedures in unionized and nonunion businesses. These data show, unsurprisingly, that almost all unionized businesses have grievance procedures in place for manufacturing, clerical, and professional employees. Further, most of these procedures incorporate third-party arbitration as the final step, and about 4/5ths of the unionized businesses with grievance procedures pay employees for time spent in grievance processing. However and perhaps surprisingly, between 42% and 54% of the nonunion businesses included in the Columbia study have written grievance procedures for one or another employee group. Even more surprising, about one of every five of these procedures features third-party arbitration, and about four of every five of these procedures pay employees for time spent in grievance processing.

How extensively are nonunion grievance procedures actually used by employees? While the Columbia data set provides no evidence on this matter, some, more limited evidence is available from recent studies of nonunion grievance procedures in five United States businesses; the data

GRIEVANCES IN THE NONUNION WORKPLACE (1989); D. MCCABE, *CORPORATE NONUNION COMPLAINT PROCEDURES: A STRATEGIC HUMAN RESOURCES MANAGEMENT ANALYSIS* (1988).

4. J. DELANEY, D. LEWIN & C. ICHNIOWSKI, *HUMAN RESOURCE POLICIES AND PRACTICES IN AMERICAN FIRMS* (Bureau of Labor-Management Relations No. 137, 1989).

TABLE 1  
GRIEVANCE PROCEDURES AND COMPLAINT SYSTEMS IN UNION AND NONUNION BUSINESSES

Occupation Group	Nonunion Businesses			Union Businesses		
	(1) % of Businesses that have a procedure for occupation group	(2) % of Businesses with procedures that have arbitration	(3) % of Businesses with procedures that pay employees for processing time	(4) % of Businesses that have a procedure for occupation group	(5) % of Businesses with procedures that have arbitration	(6) % of Businesses with procedures that pay employees for processing time
Manager	42% (455)	20% (170)	83% (202)	—	—	—
Professional/ Technical Employees	45% (439)	21% (167)	84% (197)	96% (57)	88% (51)	85% (46)
Clerical Employees	47% (460)	24% (181)	78% (209)	99% (88)	96% (81)	79% (80)
Manufacturing/ Production Employees	54% (325)	17% (150)	80% (178)	98% (177)	94% (156)	79% (155)

Sample size is in parentheses.

Source: John Thomas Delaney, David Lewin, and Casey Ichniowski, *Human Resource Policies and Practices in American Firms*, U.S. Department of Labor, Bureau of Labor-Management Relations and Cooperative Programs BLMR 137 (Washington, D.C.: 6.P.O., 1989), p. 60.

cover the period from 1985 to 1988, and are summarized in Table 2.<sup>5</sup> In these five nonunion businesses, the "grievance rate" per 100 employees averaged 5.1 over the 1985-88 period, and ranged between 3.8 and 6.2 among individual businesses. Note that this average grievance filing rate is approximately 40 percent lower than grievance rates which have recently been reported for unionized businesses in a wide range of manufacturing and service industries.<sup>6</sup> Observe, further, from Table 2 that most grievances are settled at the lower levels of these nonunion procedures, and that, on average, about one of every 500 grievances initially filed eventually makes its way to the last step of the procedure. This "ascension rate" was highest in the one nonunion business among these five which featured arbitration as the final step of the procedure.<sup>7</sup>

### III. PART II: PATTERNS OF NONUNION GRIEVANCE PROCEDURE USAGE AND SETTLEMENT

What issues are taken up in nonunion grievance procedures, and at what levels are these issues settled? Some answers to these questions are provided by the data in Tables 3 and 4 for the five nonunion businesses studied here (and for which overall grievance procedure usage data were reported in Table 2). In these businesses, and as shown in Table 3, written grievances were most commonly filed over pay and work issues (36% of all grievances), followed by performance and mobility issues (27% of all grievances), and discipline issues (13% of all grievances). The incidence of pay, work, and discipline-related grievances in these nonunion businesses squares relatively closely with the incidence of such issues in unionized businesses, but the incidence of performance and mobility issues does not.<sup>8</sup>

To achieve a better understanding of these grievance filing patterns, a series of regression analyses were performed in which grievance filing and grievance filing issue served as the dependent variables (respectively),

5. See D. LEWIN, *GRIEVANCE PROCEDURES IN NONUNION BUSINESSES: NEW EVIDENCE ABOUT USAGE, SETTLEMENT AND CONSEQUENCES* (Institute of Industrial Relations Working Paper, 1991). Note that in nonunion settings, grievance procedures are generally referred to as (or titled) complaint, due process, or appeal procedures.

6. D. LEWIN & R. PETERSON, *THE MODERN GRIEVANCE PROCEDURE IN THE UNITED STATES* (1988). In their study, grievances per 100 employees ranged from 7.5 in retail department stores to 14.8 in steel manufacturing.

7. Data on the arbitration of grievances in nonunion settings are difficult to come by. The American Arbitration Association (AAA) reports several hundred cases of nonunion grievance arbitration annually, but reliance on the AAA and the reporting of such cases are far less systematic in nonunion than in unionized settings.

8. See D. LEWIN & R. PETERSON, *supra* note 6; D. LEWIN & R. PETERSON, *BEHAVIORAL OUTCOMES OF GRIEVANCE SETTLEMENT IN UNIONIZED BUSINESS* (Institute of Industrial Relations Working Paper, 1991).

TABLE 2  
ANNUAL AVERAGE GRIEVANCE FILING RATES IN FIVE NONUNION BUSINESSES, 1985-1988  
(PER 100 EMPLOYEES)

	Firm A	Firm B	Firm C	Firm D	Firm E	Total
Grievance Step	Annual Average, 1985-1988	Annual Average, 1985-1988	Annual Average, 1985-1988	Annual Average, 1985-1988	Annual Average, 1985-1988	Annual Average, 1985-1988
Grievance Rate Per 100 Employees	4.1	3.8	4.7	6.2	5.4	5.1
Second Step Grievance Rate Per 100 Employees	1.6	1.3	2.1	2.5	2.2	1.9
Third Step Grievance Rate Per 100 Employees	0.5	0.5	1.0	0.4	1.3	0.8
Fourth Step Grievance Rate Per 100 Employees						0.2
•CEO	0.1					
•Senior Vice President, Human Resources		0.2				
•Chief Administrative Officer			0.1			
•General Manager				0.2		
•Arbitration Panel					0.3	

**TABLE 3**  
**GRIEVANCES FILED BY ISSUE IN FIVE NONUNION**  
**BUSINESSES, ANNUAL AVERAGE, 1985-1988**  
**(IN PERCENT)**

Issue	Firm A	Firm B	Firm C	Firm D	Firm E	Total
Pay and Work	38%	40%	32%	33%	35%	36%
Pay rate, grade	7%	6%	8%	5%	5%	6%
Overtime	6%	8%	7%	7%	6%	7%
Job Classification	4%	4%	2%	2%	4%	3%
Work Standards	4%	5%	4%	6%	5%	5%
Job Assignment	7%	8%	4%	5%	6%	6%
Work Hours	5%	4%	3%	2%	5%	4%
Safety & Health	5%	5%	4%	6%	4%	5%
Benefits	11%	12%	11%	9%	9%	10%
Vacation	2%	1%	1%	2%	1%	1%
Holidays	2%	2%	3%	1%	2%	2%
Personal Leave	2%	3%	2%	1%	1%	2%
Seniority	2%	3%	3%	3%	3%	3%
Medical, Life, Pension Coverage	3%	3%	2%	2%	2%	2%
Performance and Mobility	24%	21%	29%	30%	27%	27%
Performance Eval.	7%	5%	6%	11%	8%	8%
Promotion	5%	4%	8%	6%	7%	7%
Transfer	2%	2%	4%	3%	3%	3%
Layoff	2%	3%	3%	2%	2%	2%
Recall	2%	2%	1%	2%	1%	1%
Training	6%	5%	7%	6%	6%	6%
Discipline and Discharge	11%	14%	13%	15%	16%	13%
Suspension	4%	4%	4%	5%	5%	4%
Demotion	3%	5%	4%	5%	4%	4%
Discharge	4%	5%	5%	5%	7%	5%
Discrimination	6%	6%	5%	4%	5%	5%
Race	3%	3%	2%	2%	2%	2%
Sex	3%	3%	3%	2%	3%	3%
Supervisory Relations	10%	7%	10%	9%	8%	9%
Total	100%	100%	100%	100%	100%	100%

and grievance filer "characteristics" served as the independent variables.<sup>9</sup> These analysis showed that, in the aggregate, grievance filers in these five businesses were male, younger, less experienced, more likely to be a member of a minority group, and more likely to be in a blue-collar job

9. See, D. LEWIN, *supra* note 5. These were ordinary least squares (OLS) regressions applied to a data base of 9976 employees among the five nonunion businesses included in this study.

than nonfilers. In terms of specific grievance issues, female employees in these businesses were significantly more likely to file written grievances over performance and mobility issues than male employees; blue-collar workers were significantly more likely to file grievances over workplace safety and health, discipline, and pay issues than white-collar workers; more educated employees were significantly more likely to file grievances over work assignment, personal leave, and training issues than less educated employee; and younger workers were significantly more likely to file grievances over pay, discipline, and job assignment issues than older workers. Further, women and racial/ethnic minorities were more likely to file discrimination grievances than male and nonminority workers, respectively, although the differences were not statistically significant. Women were also more likely to file sexual harassment grievances than men, but here too the differences were not statistically significant.

Table 4 presents data on the level of settlement of grievance issues in these five nonunion businesses. It is apparent from Table 4 that grievances over performance and mobility, discipline, and discrimination issues are more likely to reach higher levels of settlement than grievances over other issues, including pay and work, benefits, and supervisory relations; subsequent statistical analyses confirmed this "higher" likelihood.<sup>10</sup> What is not apparent from Table 4, but which was also confirmed by statistical testing, is that an employee in these five nonunion businesses who files a grievance is more likely to "win" that grievance if it is pursued to the higher levels of the grievance procedure than if it is settled at lower levels.<sup>11</sup> This is particularly true of grievances over promotion, training and discrimination issues. Because only one of the five nonunion businesses which provided data for this portion of the study mandates arbitration as the final step of the grievance procedure, the present analysis strongly suggests that senior management is "reversing" lower level management on issues/grievances involving promotion, mobility, and discrimination. Whether this primarily reflects the greater distance of senior management than middle and lower level management from actual workplace conditions and circumstances, or other factors, is an important issue for future research.<sup>12</sup>

10. See *id.*

11. This finding is consistent with earlier findings reported in Lewin, *Dispute Resolution in the Nonunion Firm: A Theoretical and Empirical Analysis*, 31 J. CONFLICT RESOLUTION 465, 485-87 (1987).

12. It is possible that, in nonunion settings, senior management is more prone than arbitrators to overturn the decisions of lower management with respect to grievance cases. To explore this proposition empirically requires comparative, longitudinal studies of nonunion dispute resolution procedures with and without third party arbitration.



TABLE 4  
LEVEL OF GRIEVANCE SETTLEMENT BY ISSUE, IN FIVE NONUNION BUSINESSES, 1985-1988  
(IN PERCENT OF WRITTEN GRIEVANCES FILED)

Grievance Issue	Firm A				Firm B				Firm C				Firm D				Firm E			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Pay and Work	61	29	9	1	62	30	6	2	58	27	13	2	59	26	12	3	62	26	10	2
Benefits	73	21	5	1	70	24	4	2	68	25	5	2	67	24	8	1	69	21	9	1
Performance & Mobility	51	33	12	4	49	32	14	5	53	25	9	3	52	30	13	5	57	24	16	3
Discipline	56	29	12	3	55	29	12	4	56	26	16	2	54	29	14	3	52	29	13	6
Discrimination	48	31	16	5	49	32	15	4	50	27	19	6	51	24	19	6	50	30	15	5
Supervisory Relations	72	23	3	2	70	24	5	1	72	22	5	1	74	20	6	0	69	23	7	1
Average	62	26	9	3	60	27	10	3	59	27	12	2	59	26	12	3	63	22	12	3

#### IV. PART III: EMPLOYEE AND MANAGER PERCEPTIONS OF NONUNION GRIEVANCE PROCEDURES

Because nonunion grievance procedures do not in general involve a (third-party) representative of employees, it has been widely speculated that such procedures will not be used or, at "best," be used very modestly by employees.<sup>13</sup> The data presented above do not support this view, although they do imply lower grievance procedure usage rates in nonunion than in unionized settings.

Another way of examining this issue is to consider nonunion employees' perceptions of grievance procedures, where such procedures are provided to them. A recent study provides such perceptual data, though these data are limited to several hundred employees (and managers) of a single nonunion business. This business, which provides express mail, courier, and package delivery services, has one of the best known grievance procedures presently extant among nonunion firms, and it recently cooperated in an extensive data collection effort intended to assess employees' and managers' perceptions of the fairness and effectiveness of its procedure.<sup>14</sup>

In this study, grievance procedure effectiveness was operationalized via responses to the following question: "Overall, on a scale of 1 to 10, with 10 being "excellent," 5 being "average," and 1 being "poor," how would you rate the grievance procedure?" Independent variables included in the study measured the respondents' beliefs about the extent to which the grievance procedure provided an independent fact-gathering procedure, was impartial, provided feedback about grievance settlement, featured reprisal for filing grievances, provided multiple levels of review, led co-workers to think "badly" of grievance filers, and provided outcomes favorable to grievance filers. The quantitative results of this study are summarized in Table 5.<sup>15</sup>

13. Ichniowski & Lewin, *Grievance Procedures and Firm Performance*, in HUMAN RESOURCES AND THE PERFORMANCE OF THE FIRM 159 (H. Kleiner, R. Block, M. Roomkin & S. Salsburg eds. 1987).

14. See A. WESTIN & A. FELIU, *RESOLVING EMPLOYMENT DISPUTES WITHOUT LITIGATION* (1988). The study reported here was conducted with my colleague, Professor Karen E. Boroff. For further details, see K. BOROFF, *MEASURING THE PERCEPTIONS OF EFFECTIVENESS OF WORKPLACE COMPLAINT PROCEDURE* (August, 1989); K. BOROFF, *A MODEL FOR MEASURING PERCEPTIONS OF EFFECTIVENESS OF WORKPLACE COMPLAINT PROCEDURE* (1989) (paper presented to the Academy of Management Annual Meeting); Boroff, *Measuring the Perceptions of the Effectiveness of a Workplace Complaint Procedure*, 5 *Advances in Industrial and Labor Relations* 207 (D. Sockell, D. Lewin, & D. Lipsky eds. 1990) [hereinafter *Boroff, Measuring Perceptions*]; K. BOROFF & D. LEWIN, *LOYALTY, VOICE, AND INTENT TO EXIT A NONUNION FIRM: A CONCEPTUAL AND EMPIRICAL ANALYSIS* (Institute of Industrial Relations Working Paper, 1991).

15. Note that managers below senior ranks are eligible to use the grievance procedure in this

TABLE 5  
REGRESSION COEFFICIENTS ON PERCEIVED GRIEVANCE PROCEDURE EFFECTIVENESS  
(t STATISTICS ARE IN PARENTHESES)

Independent Variable	Employees	Managers	Combined Population	Employee Filers	Employee Nonfilers
Constant	6.34	7.25	6.91	6.28	6.23
Independence	.17*** (3.04)	-.02 (-.082)	.14*** (2.93)	.20*** (3.15)	.04 (0.97)
Impartiality	.25*** (5.61)	.03 (0.94)	.28*** (5.02)	.28*** (4.76)	.27*** (4.47)
Feedback	.16*** (3.63)	.16*** (3.45)	.16*** (4.11)	.14** (2.43)	.17*** (2.64)
Reprisal	-.18*** (-3.69)	-.12*** (-2.73)	-.17*** (-4.82)	-.09 (-1.21)	-.34*** (-4.97)
Multiple Levels	.23*** (5.21)	.33*** (6.84)	.30*** (7.96)	.27*** (4.31)	.18** (2.04)
Others Think	.01 (0.17)	-.16*** (-3.34)	-.08** (-2.32)	.03 (0.52)	-.01 (-.0.13)
Sex (1 = male)	.05 (0.20)	-.01 (-.07)	.03 (1.02)	.02 (0.76)	.13* (1.91)
Race (1 = minority)	.01 (0.06)	.03 (0.55)	.01 (0.42)	-.03 (-.0.67)	.08 (1.17)
Education	.03 (0.87)	.04 (1.00)	.03 (1.26)	.01 (0.22)	.03 (0.45)
Age	-.01 (-.0.06)	-.01 (-.0.08)	-.01 (-.0.32)	.02 (0.26)	-.09 (-1.15)
Outcome (1 = employee "win")				.25*** (4.38)	
N	397	410	807	191	96
R <sup>2</sup>	.44	.30	.38	.43	.54

\* = Significant at  $p = < .10$ \*\* = Significant at  $p = < .05$ \*\*\* = Significant at  $p = < .01$

These results show that for the combined population of employees and managers, grievance procedure effectiveness was significantly positively related to the following beliefs: an independent fact gathering procedure is present, the procedure is impartial, feedback is provided to the parties, and multiple levels of review are offered. Grievance procedure effectiveness was significantly negatively related to the belief that others (co-workers) "think badly" of grievance filers and the belief that grievance filers suffer reprisals for filing grievances. It should be noted, as well, that grievance procedure effectiveness ratings in this business were insignificantly related to the sex, education, minority status, and age of the respondents.

When these findings are decomposed, the determinants of perceived grievance procedure effectiveness are shown to vary among employee groups in this nonunion business (Table 5). For example, the belief that the grievance procedure provides for independent fact-gathering is significantly positively related to perceived grievance procedure effectiveness for employees who have actually used the procedure (that is, filed grievances), but not for employees who haven't used the procedure nor for managers. A belief that the grievance procedure is impartial is significantly positively related to perceived grievance procedure effectiveness for all employee groups shown in Table 5, but not for managers. In contrast, a belief that use of the grievance procedure leads to reprisals is significantly negatively related to perceived grievance procedure effectiveness among managers and employees who haven't used the procedure, but not among employee-grievance filers. The belief that co-workers will "think badly" of grievance filers is significantly negatively related to perceived grievance procedure effectiveness among managers, but not among any of the employee groups for which data are provided in Table 5. Observe further from this table that for employees who filed grievances in this nonunion business, winning the grievance is significantly positively related to perceived grievance procedure effectiveness. This finding provides some support for the notion that employees are able to separate the distributive justice dimension from the procedural justice dimension of a grievance procedure.<sup>16</sup>

The model used to generate the empirical findings of Table 5 was

nonunion business—that is, to file grievances. Thus, in Table 5, managers constitute one employee group, in contrast to their role as respondents to grievances, which is taken up later in this section.

16. For more on these theoretical constructs, see R. LEWICKI, S. WEISS & D. LEWIN, *MODELS OF CONFLICT, NEGOTIATION AND CONFLICT INTERVENTION: A REVIEW AND SYNTHESIS* (*Journal of Organizational Behavior*, 1992, forthcoming); Gordon, *Grievance Systems and Workplace Justice: Tests of Behavioral Propositions about Procedural and Distributive Justice*, 40 *PROC. INDUS. REL. RES. A. ANN. MEETING* 390 (1988); Sheppard, *Third Party Conflict Intervention: A Procedural*

developed from the perspective of employees (including managers) who are eligible to use the grievance procedure. In this study, a second model was developed to test perceived grievance procedure effectiveness from the perspective of managers who respond to employee grievances in this nonunion business. The independent variables included in this model measure manager-respondents' beliefs about the loss of flexibility in supervising employees with a grievance procedure present, the degree to which the grievance procedure provides employees with fair treatment at work, the effects of the grievance procedure on employee morale and work team performance, the adequacy of training in using the grievance procedure, the value of the grievance procedure in providing information about company policy and workplace practices, the extent to which the grievance procedure helps the business to comply with government regulation of the employment relationship, and the extent to which the grievance procedure helps the company avoid the unionization of its employees.<sup>17</sup>

The results of regression tests of this model are presented in Table 6, with the second set of results incorporating a variable measuring the extent to which grievances actually filed were decided in the grievant's favor. The findings indicate that manager-respondents perceived effectiveness of the grievance procedure in this nonunion business is significantly negatively associated with the belief that they lose flexibility in supervising subordinates under this procedure, but significantly positively associated with the belief that the procedure enhances subordinate work team performance, provides a source of information about weaknesses in company policies/work practices, and assists the company in avoiding employee unionization. The last of these findings is consistent with evidence produced elsewhere which shows strong positive relationships between nonunion businesses' adoption of grievance procedures and preferences for union avoidance.<sup>18</sup> Note further from Table 6 that manager-respondents' belief that the grievance procedure provides fair treatment to employees at the workplace is positively associated with perceived grievance procedure effectiveness (though the coefficients in this case only border on statistical significance), and that all of these results apparently are unaffected by the outcome of grievance cases (that is,

*Framework*, in 6 RESEARCH IN ORGANIZATIONAL BEHAVIOR 141 (B. Shaw & L. Cummings eds. 1984).

17. For further elaboration of this model, see Boroff, *Measuring Perceptions*, *supra* note 14.

18. E.g., R. BERENBEIM, NONUNION COMPLAINT SYSTEMS: A CORPORATE APPRAISAL (The Conference Board Report No. 770 (1980)); A. FREEDMAN, THE NEW LOOK IN WAGE POLICY AND EMPLOYEE RELATIONS (The Conference Board Report No. 856, 1985); Fiorito, Lowman & Nelson, *The Impact of Human Resource Policies on Union Organizing*, 26 INDUS. REL. 113 (1987).

**TABLE 6**  
**REGRESSION COEFFICIENTS ON PERCEIVED GRIEVANCE**  
**PROCEDURE EFFECTIVENESS FOR**  
**MANAGER-RESPONDENTS**  
**(t - STATISTICS ARE IN PARENTHESES)**

Independent Variable	Manager- Respondents	Manager-Respondents With Grievance Outcome
Constant	7.36	7.39
Loss of Flexibility	-.29*** (-4.16)	-.28*** (-3.94)
Fair Treatment	.13* (1.86)	.14* (1.92)
Employee Morale	.09 (1.20)	.08 (1.11)
Work Team Performance	.19*** (2.74)	.18*** (2.63)
Training	-.01 (-0.21)	-.02 (-0.20)
Information Source	.16** (2.30)	.15** (2.19)
Compliance	-.06 (-1.02)	-.06 (-0.96)
Union Avoidance <sup>1</sup>	.14** (2.02)	.14* (1.94)
Sex (male = 1)	.01 (0.05)	.01 (0.04)
Race (minority = 1)	.06 (0.87)	.05 (0.91)
Education	.07 (0.96)	.06 (1.01)
Age	-.07 (-1.16)	-.08 (-1.24)
Outcome (1 = employee "win")		-.09 (-1.32)
N	200	193
R <sup>2</sup>	.32	.32

\* = Significant at  $p = < .10$

\*\* = Significant at  $p = < .05$

\*\*\* = Significant at  $p = < .01$

who wins and who loses.) These findings, in turn, imply that managers are perhaps more strongly oriented toward procedural justice and less strongly oriented toward distributive justice than employees—at least in the one nonunion business studied here.

More recently, the data from this one business were used to examine the determinants of grievance procedure usage. Of particular interest are the relationships between perceived grievance procedure effectiveness and use of the procedure, and between employee loyalty and use of the

procedure. Based on prior applications of the exit-voice model to unionized workplaces,<sup>19</sup> it may be hypothesized that employee loyalty will be positively associated with grievance procedure usage (that is, the exercise of voice) in nonunion settings. Similarly (but without comparable prior evidence), perceived grievance procedure effectiveness is hypothesized to be positively related to grievance procedure usage.

The results of testing these hypotheses using multinomial regression analysis are given in Table 7, together with results for certain "control"

TABLE 7  
REGRESSION COEFFICIENTS ON USE OF THE  
GRIEVANCE PROCEDURE  
(t - STATISTICS ARE IN PARENTHESES)

Independent Variable	Coefficient
Constant	.39
Loyalty	-.10* (-1.89)
Perceived Effectiveness Rating (1=low, 10=high)	-.08* (-1.67)
Years of Service	.09** (2.37)
Sex (Male=1)	.27 (1.10)
Education	.05 (.77)
Occupation	.04 (.38)
N	320
R <sup>2</sup>	.36

\* = Significant at  $p = < .10$

\*\* = Significant at  $p = < .05$

variables.<sup>20</sup> In brief, the aforementioned hypotheses are not supported by the empirical findings. Both employee loyalty and perceived griev-

19. A. HIRSCHMAN, EXIT, VOICE AND LOYALTY (1970); Freeman, *The Exit-Voice Tradeoff in the Labor Market: Unionism, Job Tenure, Quits and Separations*, 94 Q.J. ECON. 643 (1980).

20. For a more complete analysis, see K. BOROFF & D. LEWIN, *supra* note 14. The dependent variable in this model is actually the probability of using the grievance procedure (exercising voice) among employees who believe that they have experienced unfair treatment in the employment relationship. Because the correct functional form of the equation is one that constrains the probability

ance procedure effectiveness are significantly negatively associated with grievance procedure usage. Of the control variables, length of service in the business is significantly positively associated with grievance procedure usage, while all other variables are insignificantly related to the dependent variable. These findings cast some doubt on the proposition that employee loyalty contributes to the exercise of voice in the employment relationship.

Moreover and more broadly, the validity of the exit-voice model in an employment context is called into question by an additional set of findings based on data from this same nonunion business. These data and the findings derived therefrom pertain to the determinants of employees' intent to stay with (or leave) the business.<sup>21</sup> The results of this (multinomial) regression analysis are presented in Table 8. They show that the use of voice—the filing of a written grievance—in this business is significantly positively associated with intent to leave (exit) the business. Note also that perceived effectiveness of the grievance procedure is significantly negatively associated with intent to leave (exit) the business. However, while these and prior results apparently cast doubt on the validity of the exit-voice model in an employment context, it may be that the presence of a union (third party representative) is required for employee loyalty to be translated into use (rather than nonuse) of the grievance procedure—and for use of the procedure to bring about a lower (rather than higher) propensity to leave the business. Clearly, research that goes beyond a single company data base is required in order to more systematically sort out these complex relationships.

#### V. PART IV: POST-GRIEVANCE SETTLEMENT OUTCOMES

The *Steelworkers Trilogy*, numerous other court decisions, and a voluminous literature attest to the fact that the settlement of disputes arising out of the employment relationship has attracted a great deal of scholarly, popular, and practical attention.<sup>22</sup> Far less attention has been paid to what can be labeled “post-grievance resolution outcomes” or consequences, both in unionized and nonunion settings.<sup>23</sup> Put differently

of grievance procedure usage to between zero and one, a multinomial LOGIT regression test is used to estimate this probability.

21. See also Boroff, *Loyalty—A Correlate of Exit, Voice or Silence?*, 42 PROC. INDUS. REL. RES. A. ANN. MEETING 307 (1990).

22. See, e.g., F. ELKOURI & E. ELKOURI, *HOW ARBITRATION WORKS* (4th ed. 1985).

23. The first such studies are reported in Lewin, *Conflict Resolution in the Nonunion High Technology Firm*, in HUMAN RESOURCE MANAGEMENT IN HIGH TECHNOLOGY FIRMS 137 (A. Klingartner & C. Anderson eds. 1987) [hereinafter Lewin, *Conflict Resolution*]; Lewin, *supra* note 11.



TABLE 8  
REGRESSION COEFFICIENTS ON INTENT TO  
LEAVE THE BUSINESS  
(t - STATISTICS ARE IN PARENTHESES)

Independent Variable	Coefficient
Constant	-2.95
Use of the Grievance Procedure	1.30*** (2.78)
Perceived Effectiveness Rating (1=low, 10=high)	-.21*** (-2.61)
Years of Service	-.05 (-0.88)
Sex (Male=1)	-.32 (-0.82)
Education	.14 (1.23)
Occupation	-.10 (-0.58)
N	223
R <sup>2</sup>	.39

\*\*\* = Significant at  $p = < .01$

and in question form, "what happens to employees who use grievance procedures once their grievances have been 'resolved'?"

One way of addressing this question is to compare grievance filers with nonfilers over time and across a set of measures pertaining to job performance, career mobility, work attendance, and continuity of employment. While this is a conceptually sound research design, the lack of (access to) data appears to be the primary obstacle to research on post-grievance resolution outcomes. Fortunately, this data limitation has been partially overcome by a series of recent studies which gained access to and merged grievance filing and settlement data with personnel record data in a set of nonunion and unionized U. S. businesses.<sup>24</sup> The data from five nonunion businesses covering the 1984-88 period were analyzed quantitatively, and some highlights from the findings of these studies are presented in this section.

In brief, the research approach followed in these studies was to se-

24. D. LEWIN, *supra* note 5.

lect from each company's files samples of grievance procedure users, labeled "filers," and nonusers, labeled "nonfilers," where the cases submitted by filers were introduced and resolved in a single year—here, 1986. Then, personnel records for the samples of filers and nonfilers were obtained, and data pertaining to their performance evaluations, promotions, work attendance, and employment continuity (that is, turnover) were extracted. In each company, the samples of filers and nonfilers were limited to—drawn from—employees who were employed as of January 1, 1984, remained employed as of December 31, 1986, and may have continued to be employed through December 31, 1988. Performance evaluation indices, promotion rates, and work attendance measures were then constructed for all filers and nonfilers for the January 1, 1984 - December 31, 1988 period (or relevant portion of the January 1, 1987 - December 31, 1988 period, depending upon continuity of employment). In addition, post-1987 turnover measures (to December 31, 1988) were assembled for each filer and nonfiler group in each company. In short, this research was constructed as a pre-test, post-test control group design aimed at determining whether grievance filers in nonunion businesses undergo different employment experiences than nonfilers as a result of using the grievance procedures provided to them by their employers.<sup>25</sup>

Table 9 provides a summary of the relevant data for the total filer and total nonfiler groups in these five companies over the 1984-88 period. These data suggest several conclusions. First, grievance filers and nonfilers do not differ (statistically) significantly in terms of mean job performance ratings or promotion rates during the pre-grievance filing period (1984-85) or the grievance filing period (1986). The work attendance of grievance filers (measured by mean percent of all days reporting on time to work during a work year) was slightly but not (statistically) significantly higher than that of nonfilers during the pre-grievance filing period and the year of grievance filing. In other words, two groups of employees in five nonunion businesses—subsequent grievance filers and nonfilers—appear and, indeed, on a statistical basis, are virtually identical along several generally accepted personnel utilization and assessment measures during a two-year pre-grievance filing and a one-year grievance filing period.

Second, grievance filers and nonfilers display significantly different

25. This research approach is based on principles of quasi-experimental design set forth in D. CAMPBELL & J. STANLEY, *EXPERIMENTAL AND QUASI-EXPERIMENTAL DESIGNS FOR RESEARCH* (1963). Note that voluntary and involuntary turnover rates are provided separately in this study, with the former referring only to quits and the latter to all other forms of separation from the business.

TABLE 9  
MEASURES OF PERSONNEL ACTIVITY FOR GRIEVANCE FILERS AND NONFILERS IN FIVE NONUNION  
COMPANIES, 1984-1988 (IN ANNUAL AVERAGES)

Personnel Activity Measure	1984	1985	Year 1986	1987	1988
<b>Filers</b>					
Performance rating (1 = low, 5 = high)	3.6	3.5	3.6	3.2 <sup>a</sup>	3.0 <sup>e</sup>
Promotion Rate (in %)	4.3	4.1	4.0	1.9 <sup>b</sup>	1.5 <sup>f</sup>
Work Attendance (% of days absent and late)	7.7	7.9	8.2	8.4	8.6
Turnover Rate					
Voluntary	—	—	—	7.7 <sup>c</sup>	8.2 <sup>g</sup>
Involuntary	—	—	—	5.9 <sup>d</sup>	6.3 <sup>h</sup>
<b>Nonfilers</b>					
Performance Rating (1 = low, 5 = high)	3.5	3.4	3.6	3.9 <sup>a</sup>	3.8 <sup>c</sup>
Promotion Rate (in %)	4.2	4.2	4.3	3.9 <sup>b</sup>	3.7 <sup>f</sup>
Work Attendance (% of days absent and late)	7.9	8.1	8.3	8.1	8.2
Turnover Rate					
Voluntary	—	—	—	5.8 <sup>c</sup>	6.0 <sup>g</sup>
Involuntary	—	—	—	2.3 <sup>d</sup>	2.4 <sup>h</sup>
Total N =	2050	2114	2032	1946	1834

a,b,c,d,e,f,g,h = Differences in rates are significant at  $p = < .05$ , according to chi-square tests

job performance ratings, promotion rates, and turnover rates in the two-year post-grievance filing and settlement period, 1987-88. Specifically, grievance filers have significantly higher mean turnover rates and significantly lower mean job performance ratings and mean promotion rates than nonfilers in the post-grievance settlement period. Moreover, and though not statistically significant, the mean work attendance rates of grievance filers are lower than those of nonfilers in the post-grievance settlement period, whereas the opposite relationship prevailed in the pre-grievance filing and grievance filing periods.

Third, the differences among grievance filers and nonfilers along several personnel utilization and assessment measures widen between year one and year two (1987 and 1988, respectively) of the post-grievance resolution period. Turnover differences between grievance filers and nonfilers are significantly greater in 1988 than in 1987, while differences in performance ratings, promotion rates, and work attendance rates are insignificantly greater in 1988 than in 1987. All of this attests to a "deterioration" in the position of grievance filers relative to nonfilers following the settlement of grievances filed in 1986.

Two contrasting explanations of these findings may be posed. On the one hand, the findings suggest that nonunion employees who file written grievances under the procedures provided to them by their employers suffer reprisals for doing so. These reprisals take the form of lower performance appraisals, promotion rates, and work attendance rates, and higher turnover rates relative to comparable employees who do not file written grievances. Note that performance appraisals, promotions and some types of turnover are under the control of the employer, whereas some types of turnover (that is, quits) and work attendance (presumably) are under the control of the employee. Also note that some of the evidence provided earlier in this study and in other research supports the notion that employee fear of reprisal for filing written grievances is well justified.<sup>26</sup>

On the other hand, it is conceivable that the post-grievance resolution differences between grievance filers and nonfilers with respect to job performance ratings, promotion rates, turnover and the like reflect "true" performance differences. That is, grievance filers are systematically poorer performers (and, more broadly, employees) than nonfilers, and these "differences" are accurately reflected in the post-grievance res-

26. See Boroff, *supra* note 21; Lewin, *Conflict Resolution*, *supra* note 23; Lewin *supra* note 11. Note that the data on involuntary turnover shown in Table 9 probably provide the strongest evidence in support of the "reprisal" explanation of these overall findings.

olution personnel data. For this explanation to be valid, it must be the case that the act of grievance filing and the settlement of grievances "shocks" the employer into conducting more careful personnel assessments than those which prevailed in the pre-grievance filing and grievance filing periods. Ironically, perhaps, this explanation receives some indirect support from court decisions rendered in cases alleging unjust/wrongful termination and sex/race/age discrimination. In several such cases, the performance appraisal systems used by employers have been judged invalid and unreliable, and these judgments often "shock" employers into improving the validity of such appraisal systems.<sup>27</sup> This explanation of the aforementioned findings also receives support from the "shock" theory of unionism, whereby unions are said to spur improvements in employer utilization of personnel, technology, and management systems.<sup>28</sup>

The "reprisal" explanation of the findings reported in this paper are strengthened by an additional set of findings concerning samples of supervisors of employee grievance filers and nonfilers in the five nonunion companies which provided the data for this study (findings which are not reported in detail here). In particular, this analysis found that the supervisors of grievance filers had significantly lower performance ratings, promotion rates, and work attendance rates, and significantly higher overall turnover rates than the supervisors of non-grievance filers in the post-grievance filing-settlement period, 1987-88, whereas no such statistically significant differences were apparent in the pre-grievance filing and grievance filing periods, 1984-85 and 1986. Further, the supervisors of grievance filers had significantly higher post-1986 involuntary turnover rates than the supervisors of non-grievance filers, strongly suggesting that the businesses included in this study punished supervisors who had grievances filed against them by employees.<sup>29</sup>

It might well be that the grievance procedure-personnel assessment findings and dynamics reported here would be quite different if employees were represented by labor unions (although recent research on post-grievance resolution outcomes in unionized settings casts doubt on this contention). In any case, and in the last analysis, the reader will have to decide whether a reprisal explanation or a "true" performance assessment explanation better fits the evidence about post-grievance resolution

27. See J. DERTOUZOS, E. HOLLAND & P. EBENER, *supra* note 3; M. PLAYER, E. SHOEN & R. LIEBERWITZ, *EMPLOYMENT DISCRIMINATION LAW* (1990).

28. A. REES, *THE ECONOMICS OF TRADE UNIONS* (2d ed. 1977).

29. For earlier, supporting evidence of this phenomenon in both unionized and nonunion settings, see D. LEWIN & R. PETERSON, *supra* note 6; Lewin, *supra* note 11.

outcomes reported in this paper. What has been established by this analysis, it is hoped, is that dispute resolution processes and outcomes in nonunion (and, by inference, in unionized) settings can be subjected to systematic, quantitative analysis, and also that it is especially important to go beyond the settlement of workplace disputes, whether achieved through arbitration or other means, in order to obtain a fuller understanding of this dynamic institutional process.

## VI. PART V: SUMMARY, CONCLUSIONS, AND A RESEARCH AGENDA

This study has shown that grievance procedures are widely present in nonunion U.S. businesses, that a nontrivial proportion of these procedures provide for some form of third party dispute resolution, and that these procedures are actually used by employees—though undoubtedly less so than grievance procedures in unionized businesses. On the basis of available evidence and as a central tendency, it appears that the grievance rate per 100 employees in nonunionized businesses is about 5.0, and also that perhaps one of every 500 such grievances makes it way to the final step of the procedure. This final step varies considerably across nonunion grievance procedures, however most of the procedures (80% or so) reserve the final grievance decision to one or another level of management—in some cases, the chief executive officer.

Grievance filing issues in nonunionized settings are often, indeed typically, similar to those found in unionized settings, and deal with such matters as pay, work assignments, benefits, and working conditions. However, about one-fourth of these grievances deal with issues of promotion, career development, and training, and such issues are disproportionately brought to the fore by female employees. In the main, though, grievance filers in nonunion settings tend to be relatively young, inexperienced, less educated, male workers employed in blue-collar jobs.

This study has also shown that employees' and managers' perceptions of grievance procedure effectiveness are systematically related to certain beliefs, such as about grievance procedure independence, impartiality, feedback, multiple levels of review, co-worker perceptions, and potential for reprisal, in the case of employees, and about flexibility in supervision, employee morale, employee productivity, and union avoidance, in the case of managers. Contrary to evidence produced in studies of unionized businesses, grievance procedure usage (the exercise of voice) in a nonunion setting appears to be negatively related to employee loyalty and positively related to employees' intent to leave (quit) the business. Substantial evidence was also produced which showed that nonunion em-

ployees who use grievance procedures apparently suffer reprisals, in terms of subsequent performance evaluations, promotion rates, work attendance, and turnover rates, relative to nonusers of the procedures, although alternative explanations of these findings may be adduced.

Because so much of dispute resolution in U.S. workplaces occurs in nonunion settings, it is imperative that grievance procedure research undertaken in the 1990s focus on these settings. Clearly, it is important to know more about whether or not employee users of nonunion grievance procedures suffer reprisals for engaging in such use—and if their supervisors and managers suffer reprisals as well. To the extent that reprisals do occur, they imply reduced grievance procedure usage rates over time. This is a “proposition” which seems amenable to empirical testing, provided that relevant data can be obtained to carry out such testing.

It is also important to learn more about the viability and usage of arbitration and other, modified forms of third party dispute resolution in nonunion settings. That one-fifth of (reporting) nonunion businesses with grievance procedures indicate that their procedures culminate in third party settlement strongly suggests that data are available by which to assess the “performance” of arbitration (and related settlement procedures) in nonunion contexts. Whether and how employee representation can be made to work and to be perceived as effective in a nonunion context is another key area for future research.

Finally, the ability of grievance procedures in nonunion businesses to address such matters as work force diversity, the “glass ceiling,” maintenance of organization culture, employee drug testing, and work force downsizing, among other issues, merits serious attention. The absence of unionism from U.S. workplaces in the 1990s should not divert attention from these issues. Rather, the decline of U.S. unionism should be met by a renewed vigor on the part of industrial relations researchers to determine if conflict resolution processes can be “made to work” in the absence of unionism—made to work by addressing the aforementioned and related challenges of the modern workplace. If this can be done, it will provide a worthy successor to the issues addressed by and the doctrine enunciated in the famous *Steelworkers’ Trilogy* cases—a trilogy which the present volume rightly commemorates.